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QUESTION OF EAST TIMOR

Letter dated 22 July 1996 from the Chargé d'affaires a.i. of the Permanent Mission of Indonesia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a note verbale dated 22 July 1996 from the Permanent Mission of the Republic of Indonesia to the United Nations (see annex), in response to the communication of 28 June 1996 from the Permanent Mission of Portugal to the United Nations concerning East Timor (A/51/187).

I should be grateful if you would have the text of the present letter and its annex circulated as an official document of the General Assembly.

(Signed) Isslamet POERNOMO
Chargé d'affaires
Ambassador

* A/51/150.

ANNEX

Note verbale dated 22 July 1996 from the Permanent Mission of Indonesia to the United Nations addressed to the Secretary-General

The Permanent Mission of the Republic of Indonesia presents its compliments to the Secretary-General of the United Nations and, with reference to the note verbale dated 28 June 1996 from the Permanent Mission of Portugal to the United Nations addressed to the Secretary-General (A/51/187), has the honour to state the following.

1. The historical records clearly show that over two decades have elapsed since the Government of Portugal ceased to carry out its responsibilities by abandoning East Timor in a most irresponsible manner in August 1975. This they did after allowing the situation in the Territory to deteriorate to the point of civil war, which resulted in much suffering and great loss to the East Timorese people. It is indeed ironic that Portugal wishes to turn the clock back now and return East Timor to the former status of Non-Self-Governing Territory in order for it to re-do what it failed to do 21 years ago. In desperation, the former colonial Power has over two decades been focusing attention on the East Timor issue in order to absolve itself of its failures and ineptitude by the utter mishandling of the decolonization process in its other former Territories in Africa. As revealed by the author, Sydney Bailey, in his book entitled The UN Security Council and Human Rights, in Security Council resolutions, when describing Portugal's role as the colonial Power, the relevant verb changed from "deprecates" in 1963 (resolution 180 (1963) of 31 July 1963); to "deplores" in 1965 (resolution 218 (1965) of 23 November 1965); and finally to "condemns" in 1972 (resolution 312 (1972) of 4 February 1972). Such a culmination of forthright position by the Council was deemed necessary as "Portuguese colonialism on the African continent [was] a serious threat to the peace and security of independent African States" (resolution 290 (1970) of 8 December 1970). It is our view that by its own actions, or failure to act, Portugal has forfeited any right - moral, legal, historical or otherwise - to be still considered the Administering Power of East Timor.

2. The overwhelming majority of the East Timorese people already exercised their right to self-determination in 1976 by deciding to be independent through integration with the Republic of Indonesia in accordance with their traditional practices and on the basis of and in full compliance with General Assembly resolutions 1514 (XV) of 14 December and 1541 (XV) of 15 December 1960 and 2625 (XXV) of 24 October 1970. Consequently, the entire process of decolonization culminated in the formal promulgation into law of the Statute of Integration by the President of Indonesia on 17 July 1976.

3. Portugal's posturing as regards its claims of being unable to comply with the provisions of Article 73 e and basing such information in its note verbale on unreliable, biased and misleading sources is ludicrous and irresponsible. It merely draws attention to Portugal's past record of silence regarding its so-called responsibility towards East Timor, in particular during the years from 1976 to 1979, when the General Assembly resolutions did not even make reference

to Portugal as the Administering Power. Equally reprehensible is Portugal's persistent use of the said article by making unwarranted allegations and slanderous misrepresentations against Indonesia. Such actions are a blatant violation of those sacred obligations contained in Article 73 e. The Permanent Mission of the Republic of Indonesia is therefore compelled to make the following clarifications:

(a) Portugal's accusation that Indonesia failed to honour the consensus statements made by the Chairman of the Commission on Human Rights since 1992 is wholly untrue. On the contrary, the Government of Indonesia has taken concrete steps to continue implementing the recommendations set forth in the consensus statements and that as far as the missing persons of the Dili incident are concerned, efforts to find them are still being continued. The number of those unaccounted for is down to 54, after 2 more individuals reported their whereabouts. It is possible that some of those considered missing may be unwilling to come forward, have gone into hiding or even left Indonesia for Portugal;

(b) Indonesia, as an active member of the Commission on Human Rights since 1991, is committed to working in close cooperation with all United Nations mechanisms. It is in this spirit that the Government of Indonesia extended an invitation to the United Nations High Commissioner for Human Rights, Mr. José Ayala-Lasso to visit Indonesia, including East Timor, from 2 to 7 December 1995. During that visit, the High Commissioner was granted free access to any place and to any one he desired to meet. It is important to note that at the end of his five-day visit, a Memorandum of Intention was signed by the Government of Indonesia and the United Nations High Commissioner for Human Rights, which it was agreed would be followed by a Memorandum of Agreement. In this regard, the Memorandum seeks to enhance cooperation in the field of human rights between the Government of Indonesia, the Office of the High Commissioner and other United Nations mechanisms;

(c) It is important to note that the branch office of the National Commission on Human Rights was inaugurated on 9 July 1996, in Dili, East Timor. This independent body will also serve as a source of reliable first-hand information to verify many false and uncorroborated allegations or incitements provoked by irresponsible elements;

(d) Attempts by Portugal to portray a dismal picture of the role of Indonesia in East Timor are completely without foundation. It has seemingly opted to escalate its campaign of disinformation against Indonesia. The successful development efforts undertaken in East Timor may account for its desperate rhetorical misrepresentations on the prevailing situation in East Timor. Allegations have been levelled that detention, torture and disappearances occurred from June 1995 until January 1996. This is certainly a convenient way of making allegations without substantiating them with proof or any concrete evidence. Far from any systematic strategy of silencing demonstrators, the local law enforcement have always upheld Indonesian criminal laws, while questioning, making arrests and detaining suspects. Therefore to state blatantly that some youths in East Timor were brought to trial and sentenced for engaging in lawful activities is pure fabrication. In all such matters, after investigation and finding no evidence of violation of criminal

laws, those detained were released immediately and allowed to return to their families. As regards the 20 cases of torture referred by the Special Rapporteur on Torture of the Commission on Human Rights to the Government of Indonesia in 1995, these have been thoroughly investigated. Most of the names that were mentioned were either incomplete or matters were alleged to have taken place at times and places unknown to the Government of Indonesia. The results of the investigations have proved that none of the cases ever took place;

(e) Portugal repeatedly argues that violations of human rights exist in East Timor by citing the "reports" of Amnesty International. It is well known that the contents of such "reports" are based upon preconceived notions and uncorroborated facts. It is for these reasons that the Government of Indonesia has never granted permission to organizations like Amnesty International to visit the province as their predetermined views and negative approaches do not serve to advance the cause of the East Timorese people. The positive findings of other independent observers are as always conveniently ignored by Portugal;

(f) In response to the contention that access is restricted to certain groups, this is a misrepresentation of the factual situation. The Government of Indonesia has continued to grant the International Committee of the Red Cross (ICRC) regular access to East Timorese prisoners, both in East Timor and in other places. During their visits, the ICRC delegates were also granted free access to people they wanted to meet in East Timor and other parts of Indonesia. The Government of Indonesia has noted with appreciation the continued assistance given by ICRC to improve further the living conditions of prisoners, including the sanitation in the prisons. The Government of Indonesia and ICRC also continued to work closely in clarifying inaccurate information regarding prisons;

(g) East Timor continues to be visited by numerous foreign personalities, dignitaries and members of the diplomatic corps. Over the past six months, numerous personalities visited the province: Mr. Hans-Josef Thesen, Senior Officer of the Ministry for Economic Cooperation, Germany, from 16 to 24 May 1996; United States Senator Clairborne Pell (D-Rhode Island), from 30 May to 1 June 1996; Mr. Leslie James, Deputy Director of South-East Division, Canada, from 31 May to 5 June 1996; Mr. Utula Utuoc Samana, Permanent Representative of Papua New Guinea to the United Nations and Chairman of the Special Committee on Decolonization (Committee of 24), in his personal capacity, on 19 and 20 June 1996; several foreign correspondents based in Jakarta, including Mr. Jurgen Kremb (Germany) on 15 April 1996; and Bishop Januario Torgal of Lisbon, Bishop Hilton Deakin of Melbourne, Bishop Soma of Japan and Bishop Fernande Capaila of Davao at the inauguration of the expansion of the Seminario Nossa Senhora de Fatima on 3 February 1996. On 8 July 1996, an officer of the US Defense Intelligence Army visited East Timor to observe first-hand the civic activities of the Indonesian Armed Forces in East Timor;

(h) A series of incidents arose in the towns of Maliana, Uatolari and Dili in early September 1995. It is regrettable that the riots were caused by the irresponsible behaviour of a correctional officer of the Maliana prison, which offended people of a different religion and so easily developed into a riot, with inter-religious and inter-ethnic nuance in several towns in East Timor. It is important to note that with the persuasive and wise handling of the incident

by the local authorities, with the close cooperation of the local community leaders, including the Bishop of Dili, Mgr. Belo, the situation was quickly restored to normalcy. The Government has taken vigorous legal action against those found to be responsible for the incident. In this context, the above-mentioned warden is being brought to trial. However, it is regrettable that certain individuals will resort to anything to create the impression that East Timor is not stable. By using religious and ethnic issues, they incite the local people to react in a negative manner. It is through these underhand methods that they attempt to focus the attention of the international community on East Timor;

(i) In order to prevent the recurrence of such incidents and maintain the harmony of inter-religious and inter-ethnic life, the Government of Indonesia established a Forum of Communication and Consultation among the religious leaders in East Timor on 26 October 1995. The establishment of such a forum was previously proposed by the House of Representatives of the National Commission on Human Rights aimed at promoting inter-religious peace and harmony in East Timor. The inauguration of the forum was attended by, among others, the Indonesian Minister for Religious Affairs, the Pro Nuncio of the Holy See to the Republic of Indonesia, the Bishop of Dili and other prominent figures from various religions in East Timor. As a concrete follow-up to its establishment, the Bishop of Dili, Mgr. Belo, held a dialogue with Hindu community leaders in East Timor on 8 April 1996. Earlier, on the occasion of the Islamic holiday of Id Al-Fitr, in February 1996, Mgr. Belo met with Muslim leaders to express his felicitations. Those were regarded as positive developments, which strengthened the religious tolerance and harmony among the East Timorese;

(j) On humanitarian considerations, it was not the intent of the Government of Indonesia to prevent East Timorese youth who had tried to seek asylum at embassies in Jakarta from leaving for Portugal if they wished to do so. As in previous cases, there were no valid grounds whatsoever to support their request for political asylum as these youths were not being persecuted by the Government. That their request for political asylum was groundless seems to be the view of the embassies into which they entered forcibly, as all of the embassies rejected the request of the East Timorese youths, with the exception of Portugal;

(k) At the same time, some East Timorese who left Indonesia in the same manner, in 1994, expressed their wish to return home as the promises made to them were not kept and the dream of at least equal treatment never materialized. A reliable Munich-based newspaper published an article after two years of research stating that the East Timorese, after requesting political asylum in foreign embassies in Jakarta and upon being granted entry into Portugal, find their lives miserable, with no jobs and no future. Those interviewed are reported to have said that living in East Timor was in fact far better than living in Portugal;

(l) It should be pointed out that the East Timorese people who left for Australia by boat were not considered for political asylum by the appropriate authorities, but had their applications processed through normal channels for acquiring residence in Australia. Indonesia has never sought to obstruct the departure of any East Timorese people desirous of living in a Western country or

any other country of their choice. In this regard, the East Timorese were questioned for the sole purpose of determining criminal responsibility for the theft of boats that were used to leave East Timor;

(m) Also, as regards humanitarian considerations, the Government of Indonesia approved the request of three East Timorese leaders, including five members of their families who had lived in Portugal since the 1960s, to return and live permanently in Indonesia. The group arrived in Jakarta on 5 January 1995. They were among the East Timorese freedom fighters who rebelled against the colonial Power in 1959 and struggled for the independence of East Timor through integration with the Republic of Indonesia. It is important to note that they were among the 68 freedom fighters who were forced to live in exile following their attempted rebellion against Portugal;

(n) Despite repeated corroborations of the factual situation, the myth continues to be perpetuated of a large Indonesian military presence in East Timor. The Armed Forces have been disbanded and there are now only 5 battalions stationed in the province, four for civic missions and one to maintain peace and stability. Each battalion consists of 664 people. At the present time, the military has been greatly involved in assisting with the economic development of the province. In this regard, it has contributed immensely to the building of bridges, roads and other infrastructural facilities. The military, along with the provincial government and the Roman Catholic Church, are the "three pillars" of development of the former colonial Territory;

(o) East Timor has over the past two decades embarked on the path to nation-building as Indonesia's twenty-seventh province. When Portugal abandoned the Territory, it left behind its legacy of poverty and isolation. The Government of Indonesia has since contributed the largest expenditure ever allocated to its other provinces to expedite the development of East Timor and to enhance the welfare of the people. As recognized by visitors to the province, East Timor is reaping the fruits of those development efforts. This is reflected by the following. In 1975, East Timor had only 20 kilometres of asphalted road and currently it has more than 2,683 kilometres. In the area of education, the dismal number of 47 elementary schools, 2 junior high schools and one senior school in the whole Territory are now replaced by 715 elementary schools, 114 junior high schools, 58 senior high schools and 4 higher education institutes - the University of East Timor, the Polytechnic Institute, the secondary teaching training college and the Catholic college. Equally important was the need to eradicate health problems, which had a severe impact on the health conditions of the people of the province, in particular on infant mortality. The meagre 2 hospitals and 14 clinics, with 3 doctors and 2 dentists, were vastly expanded to a modernized health system providing 10 hospitals, 197 village health centres, which were staffed by 104 doctors, 6 specialists and 14 dentists, to be assisted by 1,500 paramedics. These dramatically improved health facilities accounted for a population growth of 2.4 per cent in 1995. The local provincial government in its recent survey was encouraged by the positive results in the infant mortality rates, which dropped from 93 per 1,000 births in 1993 to 67 per 1,000 in 1995;

(p) It is pertinent to point out that the International Court of Justice, in an overwhelming 14 to 2 vote, held that it could not adjudicate upon the

dispute referred to it by Portugal. Portugal's hollow claims as the Administering Power were indeed without legal foundation. The judgment of the International Court of Justice contains at least two important legal pronouncements. In this regard, it restated the right to self-determination as an essential principle of generally accepted principles of international law. Indonesia, itself a victim of colonialism for centuries, not only shares this legal opinion but is constitutionally obliged to accept this single most important right, the right to self-determination. Equally important is the fact that the International Court of Justice refused to recognize the claim of Portugal as the Administering Power of East Timor. This was clearly stated in paragraphs 31 and 32 of the decision;

(q) The judgment handed down by the Court rejected Portugal's frivolous contentions. Attempts to diminish the judgment as merely "procedural" will not serve to reinstate Portugal as the Administering Power of East Timor. It is also patently absurd for Portugal to "challenge" Indonesia to accept the jurisdiction of the International Court of Justice. The question of the applicability of the Court's compulsory jurisdiction simply does not arise, as, since Indonesia became a Member of the United Nations on 28 September 1950, it never became a party to the Statute of the Court. Indonesia is under no obligation to be bound by any decision rendered by the Court;

(r) With a view to promoting confidence-building measures between the two countries and their peoples, 11 Indonesian journalists have requested the permission of the Government of Portugal to visit its country in March 1996. Their request is still awaiting a favourable answer. It should be noted that during the past few years, more than 10 Portuguese journalists have visited Indonesia, including East Timor, while only 3 Indonesians have been allowed to visit Portugal;

(s) The Indonesia-Portugal Friendship Association, in its efforts to promote friendship between the two people in the social-cultural field, on 11 June 1996 launched a Portuguese-language course. The first activity will be the holding of a three-month course, in which private and public institutions will participate. The aim is to provide the participants with the ability to read and speak basic Portuguese;

(t) The Government of Indonesia has in principle granted its approval to the request of Merpati Nusantara Airlines to hire two Portuguese pilots, who will undergo the normal process for hiring of expatriate pilots.

4. The Secretary-General of the United Nations, in the context of the ongoing efforts under his auspices to seek a just, comprehensive and internationally acceptable solution to the question of East Timor, held a seventh round of talks with the Foreign Ministers of Indonesia and Portugal, under his auspices, in London on 16 January 1996. Several important points emerged during the discussions, including, inter alia, the Ministers' welcoming the visit of the United Nations High Commissioner for Human Rights, Mr. José Ayala-Lasso, to Jakarta and East Timor in December 1995, in the context of the implementation of the Chairman's statement adopted by consensus in 1995 by the Commission on Human Rights; their continued discussion on those substantive issues identified by the Secretary-General regarding possible avenues towards achieving a just,

comprehensive and internationally acceptable solution to the question of East Timor; and their further discussion of the substantive issues relating to an eventual framework for the achievement of a just, comprehensive and internationally acceptable solution to the question of East Timor, as well as other related issues, inter alia, the preservation and promotion of the cultural identity of the East Timorese people and bilateral relations between Indonesia and Portugal. The Ambassadors noted positively the intention of the Secretary-General to make the necessary arrangements for another meeting of the All-Inclusive Intra-East Timorese Dialogue, in accordance with the same terms of reference agreed at the fifth round of talks, which took place in Austria in March 1996. On 27 June 1996, the Secretary-General convened an eighth round of talks in Geneva between the respective Foreign Ministers of Indonesia and Portugal. In this regard, the talks continued in greater detail on substantive issues related to an eventual framework for the achievement of a settlement of the East Timor question, including the consideration of the proposals to consult on matters relating to the establishment of an East Timor cultural centre in Dili and to the development of human resources in East Timor. It is important to note that the ninth round of talks are scheduled to be held on 21 December 1996 in New York.

5. It is important to recall that the innovative idea of opening an interest section in Jakarta and Lisbon was initially introduced by the Secretary-General during the tripartite dialogue held on 17 December 1992 in New York. This was believed to contribute towards promoting confidence-building measures between the two countries. At that time, Indonesia responded positively, but Portugal rejected the idea. Indonesia is pleased that, after four years, since the idea was suggested to the parties, Portugal is now willing to consider the Secretary-General's idea. However, the establishment of an interest section cannot be linked to other extraneous issues, such as the release of Xanana Gusmão.

6. It is pertinent to note that the Burg Schlaining declaration of 1996, inter alia, expressed the desire of the participants of the All-Inclusive Intra-East Timorese Dialogue for the establishment of an East Timorese cultural centre in Dili, with the aim of undertaking research on the culture, language, customs and traditions of the East Timorese. In this regard, it should be noted that the Regional Office of the Department of Education and Culture has established an art centre and a local museum in Dili. These activities will be expanded in the future with the establishment of a language research centre, a history and traditional values research centre and an archaeology research centre. These activities are integral to the implementation of the national policy of the Government of Indonesia to preserve and promote the cultural diversity of the nation.

7. Throughout the process of the tripartite dialogue, Indonesia has consistently shown its good faith and goodwill in cooperating with the Secretary-General to find a just, comprehensive and internationally acceptable solution to the question of East Timor. For this to succeed, however, there should be unequivocal assurance from Portugal that it is also committed to such a solution and will cease its antagonistic posturing towards Indonesia in the United Nations and other forums. Nothing can be gained from simultaneous attempts to internationalize the matter while pretending to pursue a dialogue. It should be recalled that during the third round of talks, the Foreign

Ministers of Indonesia and Portugal concurred on the need to create a favourable and non-confrontational atmosphere in order to allow effective progress towards a comprehensive settlement to the question. Only then will a comprehensive and honourable settlement be feasible.

8. In the context of the foregoing, the Permanent Mission of the Republic of Indonesia takes the categorical view that the note verbale of Portugal does not correspond to the prevailing realities in East Timor and therefore has no validity whatsoever.

The Permanent Mission of the Republic of Indonesia to the United Nations has the honour to request the Secretary-General to have the present note and annex circulated as an official document of the General Assembly.